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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

JOEL WALLENDER,

Plaintiff,

v.

UNITED STATES CORPS OF  
ENGINEERS,

Defendant.

Case No. 3:05-cv-263-JKS

**SCHEDULING AND PLANNING  
CONFERENCE REPORT**

1. **Meeting.** In accordance with F.R.Civ.P. 26(f), a telephonic meeting was held on

February 2, 2006, and was attended by:

Peter R. Ehrhardt, attorney for the plaintiff.

Susan J. Lindquist, attorney for defendant, United States Corps of Engineers.

The parties recommend the following:

2. **Pre-Discovery Disclosures.** The information required by F.R.Civ.P. 26(a)(1):

☐ have been exchanged by the parties

         ☐ will be exchanged by the parties by **April 17, 2006:**

Preliminary witness lists

☐ have been exchanged by the parties

☐ will be exchanged by the parties by **April 17, 2006.**

Proposed changes to disclosure requirements:

3. **Contested Issues of Fact and Law.** Preliminarily, the parties expect the following issues of fact and/or law to be presented to the court at trial in this matter:

1. Whether the Court of Federal Claims is the proper court to dispute whether a federal contract contained required terms.
2. Whether Mr. Wallender has standing to challenge any part of a federal contract because he is not a party.
3. Whether the Army Corp. Of Engineers (“COE”) delegated all duties for safety at the construction site to an independent contractor.
4. Whether the COE retained any control of the construction site.
5. Whether the COE was required to implement specific safety procedures at the job site.

4. **Discovery Plan.** The parties jointly propose to the court the following discovery plan.

A. Discovery will be needed on the following issues:

The issues discussed above.

B. All discovery commenced in time to be completed by **April 10, 2007**:

C. Limitations on Discovery

1. Interrogatories.

☒ No change from F.R.Civ.P. 33(a)

☐ Maximum of Interrogatories by each party to any other party. Responses due  
in days.

2. Requests for Admissions.

☐ No change from F.R.Civ.P. 36(a).

☒ Maximum of **50** requests. Responses due in **30** days.

3. Depositions.

☒ No change from F.R.Civ.P. 30(a), (d).

☐ Maximum of \_\_\_\_ depositions by each party.

☐ Depositions not to exceed **6 hours** unless extended by agreement of all  
parties.

D. Reports from retained experts.

☒ Not later than 90 days before the close of discovery subject to F.R.Civ.P.

26(a)(2)(C).

☐ Reports due:

From plaintiff                      From defendant

E. Supplementation of disclosures and discovery responses are to be made:

- ☒ Periodically at 60-day intervals from the entry of scheduling and planning order.
- ☐ As new information is acquired, but not later than 60 days before the close of discovery.

F. A final witness list, disclosing all lay and expert witnesses whom a party may wish to call at trial, will be due **January 27, 2007**:

- ☐ 45 days prior to the close of discovery.
- ☐ Not later than

5. **Pretrial Motions.**

- ☐ No change from D.Ak. LR 16.1(c).

The following changes to D.Ak. LR 16.1(c). [**Check and complete all that apply**]

- ☐ Motions to amend pleadings or add parties to be filed not later than.
- ☐ Motions under the discovery rules must be filed **not later than 30 days after close of discovery - May 5, 2007.**
- ☐ Motions in limine and dispositive motions must be filed not later than

**May 5, 2007.**

6. **Other Provisions:**

- A. ☒ The parties do not request a conference with the court before entry of the

scheduling order.

☐ The parties request a scheduling conference with the court on the following issue(s):

B. Alternative Dispute Resolution. [D.Ak. LR 16.2]

☐ This matter is not considered a candidate for court-annexed alternative

☒ The parties will file a request for alternative dispute resolution not later than **January 2007**.

☐ Mediation ☐ Early Neutral Evaluation

C. The parties ☐ do ☒ not consent to trial before a magistrate judge.

D. Compliance with the Disclosure Requirements of F.R.Civ.P. 7.1

☐ All parties have complied ☒ Compliance not required by any party

7. **Trial.**

A. The matter will be ready for trial:

☐ 45 days after the discovery close date.

☐ not later than **April 2007**.

B. The matter is expected to take 7 days to try.

C. Jury Demanded: ☐ Yes ☒ No (No jury allowed in an FTCA case).

Right to jury disputed? ☐ YES ☒ NO

Dated: February 2, 2006.

FRIEDMAN, RUBIN & WHITE

s/ Peter R. Ehrhardt (consent)

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s/ Susan J. Lindquist

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